FILED IN THE U.S. DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

Apr 03, 2019

SEAN F. MCAVOY, CLERK

## UNITED STATES DISTRICT COURT EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

No. 4:15-cr-6049-EFS-21

Plaintiff.

v.

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ORDER GRANTING DEFENSE COUNSEL'S MOTION TO WITHDRAW AND REFERRING THIS MATTER TO THE MAGISTRATE FOR APPOINTMENT OF COUNSEL

MIGUEL REYES GARCIA,

Defendant.

Before the Court is defense counsel Kenneth Therrien's Motion to Withdraw as Attorney and Appointment of Appellate Counsel, ECF No. 1197. The Court finds that Mr. Therrien's continued service could constitute a constructive denial of Defendant Miguel Reyes Garcia's Sixth Amendment right to counsel. *See Daniels v. Woodford*, 428 F.3d 1181, 1198 (9th Cir. 2005). As such, the Court finds good cause to allow Mr. Therrien to withdraw as counsel. The Court refers this matter to the magistrate judge to appoint new appellate counsel.

## Accordingly, IT IS HEREBY ORDERED:

- The Clerk's Office shall REFER this matter to Magistrate Judge
   John T. Rodgers for the purpose of appointing appellate counsel.
- 2. Judge Rodgers shall appoint appellate counsel to represent Defendant Miguel Reyes Garcia and provide a copy of this Order to the newly appointed counsel.

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3. The Clerk's Office shall TERMINATE Kenneth Therrien as counsel for Defendant.

IT IS SO ORDERED. The Clerk's Office is directed to enter this Order and provide copies to all counsel, including Mr. Therrien, and Magistrate Judge Rodgers.

DATED this 3<sup>rd</sup> day of April 2019.

s/Edward F. Shea

## EDWARD F. SHEA

Senior United States District Judge